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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2011-91**

13 **JEANNE FUERTES ARANETA**
1695 Tulane Drive
Mountain View, CA 94040

A C C U S A T I O N

14 **Registered Nurse License No. 571960**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
21 Department of Consumer Affairs.

22 2. On or about September 15, 2000, the Board issued Registered Nurse License Number
23 571960 to Jeanne Fuertes Araneta (Respondent). The Registered Nurse License was in full force
24 and effect at all times relevant to the charges brought herein and will expire on February 29,
25 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states, in relevant part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

6. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

7. California Code of Regulations, title 16, section 1443.5 states:

"A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

"(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.

"(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

“(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client’s health needs.

“(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.

“(5) Evaluates the effectiveness of the care plan through observation of the client’s physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.

“(6) Acts as the client’s advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided.”

8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

COSTS

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Documentation)

10. Respondent is subject to disciplinary action under section 2761, subdivision (a), of the Code in that she acted unprofessionally by improperly writing in a patient's chart that certain assessments had been done before she actually performed those assessments. The circumstances of Respondent's conduct are as follows:

1 a. On or about January 31, 2009, Respondent was working as a nurse at Santa Clara
2 Valley Medical Center in San Jose, California. At approximately 9:00 a.m., Respondent was
3 caring for a patient (J.T.) who had been restrained and secluded in a room on the hospital's fourth
4 floor. At some point before 9:30 a.m., Respondent made three identical entries in J.T.'s chart
5 indicating that she had performed certain assessments and/or evaluations of him, and that he was
6 "thrashing," "incoherent/mumbling," "pulling devices & tubes," and "kicking." Respondent
7 wrote on J.T.'s chart that she made these entries at 10:00 a.m., 12:00 p.m., and 2:00 p.m.

8 b. Respondent last saw J.T. around 9:15 a.m. She went on a break at approximately 9:30
9 a.m. and returned to J.T.'s room around 10:00 a.m. Upon her return, Respondent noticed that
10 other nurses were in the room and that J.T. was nonresponsive. A code was called and J.T. was
11 transferred to the intensive care unit at approximately 10:30 a.m.

12 c. When asked about her entries in J.T.'s chart at 10:00 a.m., 12:00 p.m., and 2:00 p.m.,
13 Respondent told hospital staff that she made the three entries in advance and that she did not see
14 J.T. at those times.

15 SECOND CAUSE FOR DISCIPLINE

16 (Incompetence)

17 11. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1), of
18 the Code, and California Code of Regulations, title 16, sections 1443 and 1443.5, for
19 incompetence in that she wrote in a patient's chart that certain assessments had been done before
20 she actually performed those assessments. The circumstances of Respondent's incompetence are
21 as follows:

22 a. On or about January 31, 2009, Respondent was working as a nurse at Santa Clara
23 Valley Medical Center in San Jose, California. At approximately 9:00 a.m., Respondent was
24 caring for a patient (J.T.) who had been restrained and secluded in a room on the hospital's fourth
25 floor. At some point before 9:30 a.m., Respondent made three identical entries in J.T.'s chart
26 indicating that she had performed certain assessments and/or evaluations of him, and that he was
27 "thrashing," "incoherent/mumbling," "pulling devices & tubes," and "kicking." Respondent
28 wrote on J.T.'s chart that she made these entries at 10:00 a.m., 12:00 p.m., and 2:00 p.m.

1 b. Respondent last saw J.T. around 9:15 a.m. She went on a break at approximately 9:30
2 a.m. and returned to J.T.'s room around 10:00 a.m. Upon her return, Respondent noticed that
3 other nurses were in the room and that J.T. was nonresponsive. A code was called and J.T. was
4 transferred to the intensive care unit at approximately 10:30 a.m.

5 c. When asked about her entries in J.T.'s chart at 10:00 a.m., 12:00 p.m., and 2:00 p.m.,
6 Respondent told hospital staff that she made the three entries in advance and that she did not see
7 J.T. at those times.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 571960 issued to Jeanne
12 Fuertes Araneta;

13 2. Ordering Jeanne Fuertes Araneta to pay the Board the reasonable costs of the
14 investigation and enforcement of this case pursuant to Business and Professions Code section
15 125.3;

16 3. Taking such other and further action as deemed necessary and proper.
17

18 DATED: 8/6/10

19 *for* *Louise Bailey*
20 LOUISE R. BAILEY, M.Ed., RN
21 Interim Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California
25 Complainant
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